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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,080	12/20/2001	John Laurence Minck JR.	267/166	9793

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EXAMINER

BAXTER, JESSICA R

ART UNIT	PAPER NUMBER
3731	

DATE MAILED: 03/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/027,080	MINCK ET AL.
	Examiner Jessica R Baxter	Art Unit 3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 20 December 2001 .

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-14 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-14 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4  
4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 3, 4, 8 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,994,069 to Ritchart et al.

Regarding claims 1, 3 and 4, Ritchart discloses a vaso-occlusive device comprising a member having a length, at least a portion of the length having a serpentine shape (FIG. 5).

Regarding claim 2, Ritchart discloses that the device further comprises that the member comprises a coil (Column 3 lines 3-9).

Regarding claim 8, Ritchart discloses that the member has a length at least 15 times the amplitude of the serpentine shape (see abstract).

Regarding claim 14, Ritchart discloses that the method of occluding includes the steps of accessing the site and deploying the device by allowing the device to assume its relaxed serpentine shape and form along a surface of the vessel at the site (FIGS 8A-8D).

4. Claims 1, 2, 3, 4, 10, 11, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,382,259 to Phelps et al.

Regarding claims 1, 3 and 4, Phelps discloses a vaso-occlusive device comprising a member having a length, at least a portion of the length having a serpentine shape (Column 4 lines 18-23).

Regarding claim 2, Phelps discloses that the device further comprises that the member comprises a coil (see FIGS. 13-19).

Regarding claims 10-12, Phelps discloses a plurality of polymeric fibers attached to the member and wrapped around onto a circumferential surface of the member (Column 2 line 39- Column 3 line 6).

5. Claims 1, 2, 4, 5, 6, 10 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,749,894 to Engelson.

Regarding claims 1 and 4, Engelson discloses a vaso-occlusive device comprising a member having a length, at least a portion of the length having a serpentine shape (FIG. 3).

Regarding claim 2, Engelson discloses that the device further comprises that the member comprises a coil (FIG. 3).

Regarding claim 5, Engelson discloses that the proximal and distal portions have a serpentine shape, and the middle portion is a linear shape in the relaxed condition (FIG. 10B).

Regarding claim 6, Engelson discloses that the proximal end of the member is electrolytically detachable from the delivery device (Column 7 lines 26-37).

Regarding claim 10, Engelson discloses that device further comprises a plurality of fibers fixedly attached to the member (fibers 118 tufts 120).

Regarding claim 14, Engelson discloses that the method of occluding includes the steps of accessing the site and deploying the device by allowing the device to assume its relaxed serpentine shape and form along a surface of the vessel at the site (FIGS 10A-10B).

6. Claims 1 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,582,619 to Ken.

Regarding claim 1, Ken discloses a vaso-occlusive device comprising a member having a length, at least a portion of the length having a serpentine shape (FIG. 10A-10D).

Regarding claim 13, Ken discloses that the member is stretch resistant (Column 2 lines 37-42).

7. Claims 1, 2, 3, 4, 7 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,891,058 to Taki et al.

Regarding claims 1, 3 and 4, Taki discloses a vaso-occlusive device comprising a member having a length, at least a portion of the length having a serpentine shape (FIG. 3).

Regarding claim 2, Taki discloses that the device further comprises that the member comprises a coil (FIG. 3).

Regarding claim 7, Taki disclose that the serpentine shape has an amplitude of about 5-30 mm (Column 4 lines 6-13).

Regarding claim 14, Taki discloses that the method of occluding includes the steps of accessing the site and deploying the device by allowing the device to assume its relaxed serpentine shape and form along a surface of the vessel at the site (FIGS. 5A-5B).

8. Claims 1, 3, 4, 5 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,136,015 to Kurz et al.

Regarding claims 1, 3 and 4, Kurz discloses a vaso-occlusive device comprising a member having a length, at least a portion of the length having a serpentine shape (FIG. 1-5, and 10).

Regarding claim 5, Kurz discloses that the proximal and distal portions have a serpentine shape, and the middle portion is a linear shape in the relaxed condition (FIG. 1-5).

Regarding claim 9, Kurz discloses that the member has a substantially J-shaped tip (Column 3 lines 42-57).

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references are cited to further show the state of the art with respect to vaso-occlusive coils:

U.S. Patent No. 5,256,146 to Ensminger et al.

U.S. Patent No. 5,669,931 to Kupiecki et al.

U.S. Patent No. 6,123,714 to Gia et al.

U.S. Patent No. 6,375,671 to Kobayashi et al.

PG-PUB US 2002/0010481 to Jayaraman

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jessica R Baxter whose telephone number is 703-305-4069. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on 703-308-2496. The fax phone numbers for the organization

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where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Jessica R Baxter  
Examiner  
Art Unit 3731

*MB*  
rb  
March 20, 2003

*David O. Reip*  
DAVID O. REIP  
PRIMARY EXAMINER